

Moshe – cannot be regarded as proselytizing *away* from observance, but *towards* observance.

A similar rule of thumb would apply to invitations to Shabbat meals: If they are intended for the purpose of bringing those who are invited to Torah and mitzvot, and an offer of a place to stay over Shabbat is extended to them, they would not be categorized as desecrations of Hashem's name but rather as sanctifications of Hashem's name (*Kiddush Hashem*), leading ultimately to enhanced Sabbath observance.²⁸

28. Although not brought up by the authorities that we have cited here, the principle of "desecrate for him one Sabbath so that he will come to keep many Sabbaths" (*Yoma* 85b) – which pertains both to physical and spiritual crises (see *Shulchan Aruch, Orach Chaim* 306:14 with *Magen Avraham* ad loc. #29) – may apply here as well. See also <http://www.vbm-torah.org/halakha/EducationalProgramming.htm> for different analyses of some of the responsa we have perused.

Autopsies in the Modern Age

Dr. Jonathan Rosman

Introduction

Mr. X, a 32 year old man, collapsed while playing basketball. Efforts to revive him were unsuccessful and he was pronounced dead on arrival to the hospital. The family was contacted and the treating physician recommended performing an autopsy to discover the cause of death. The autopsy was performed and revealed that the patient had a genetic cardiomyopathy (heart muscle disease) that led to sudden cardiac death. The entire family was screened for this specific genetic cardiomyopathy and those affected received implantable defibrillators to prevent sudden death.

Structural heart disease is found during autopsy to be the cause of death in 70% of young adults who die suddenly.¹ Most of these cardiac disorders are genetic and while some may be diagnosed with non-invasive imaging, gross examination and tissue analysis is often needed for definitive diagnosis.² Examining family

1. C. van der Werf, I. van Langen, A. Wilde. Sudden Death in the Young. What Do We Know About It and How to Prevent. *Circulation Arrhythmia and Electrophysiology* 2010;3:96-104.

2. D. Zipes, P. Libby, R. Bonow, E. Braunwald. *Braunwald's Heart Disease: A Textbook of Cardiovascular Medicine*, 8th ed. 2008. Volume I: 933-953.

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members for potential cardiac diseases instead of performing an autopsy is inadequate, since there are varying presentations of these cardiac diseases that may go unrecognized.³⁻⁴ It is therefore imperative to correctly diagnose the deceased so that all family members can be screened for the appropriate disorder.

Judaism believes in the sanctity of the human body.⁵ The utmost respect is given to every Jewish body from time of death until burial. An autopsy is an "examination of a corpse to discover cause of death."⁶ The act of dissection defiles the body of the deceased and is therefore usually prohibited in Judaism. Nowadays, autopsies are not performed on a routine basis. However, there are situations where a physician, patient or family member may request to perform an autopsy. The goal of this article is to delineate if and when autopsies are permissible according to Jewish law.

Burying a Jewish body

The first issue encountered with autopsies is the requirement to bury the deceased immediately. This is derived from Deuteronomy⁷ which discusses the case of

3. Ibid. Vol II: 1764-1765.

4. Blood samples from family members can detect only some genetic cardiac disorders and it takes weeks to analyze blood for these various diseases. If these tests come back negative it would be a disgrace to exhume the body for autopsy to test for familial disorders that are not picked up by genetic testing. It is therefore important to begin with the deceased and attempt to diagnose cause of death and only if that is unrevealing test family members.

5. Zohar, Ha'Idra Rabbah, Vol III, Parshat Naso. Also see Likutei sheyilot Mishuvot Chatam Sofar part 6 # 10.

6. Webster dictionary; autopsy.

7. Deuteronomy 21:23.

a man who commits a crime that is punishable by death. After the criminal is executed and hanged, the Torah states that "his body shall not remain all night upon the tree, but thou shall surely bury him that day." The Gemara in *Sanhedrin*⁸ extends this requirement to immediately bury the deceased to include all Jewish bodies.

The Rambam⁹ classifies the requirement to bury Jewish bodies on the day of death as a *mitzvat aseh* (positive commandment) based on the latter part of the verse above, "thou shall surely bury him that day." The *Shulchan Aruch*¹⁰ describes burial as a *mitzvat lo taaseh* (negative commandment) based on the initial part of the verse, "his body shall not remain all night..." The *Minchat Chinuch*¹¹ states that there is both a *mitzvat aseh* and *mitzvat lo taaseh* to bury a Jewish body.

Autopsies delay burial and are problematic because of the requirement to immediately bury the dead. One reason for immediate burial given by the Gemara is out of respect for the deceased.¹² Leaving the body unburied is degrading to the deceased and his/her family.¹³ However, postponing burial for purposes that would not be considered degrading to the body may then be permissible. For example, it is permitted to delay burial to await the arrival of a close relative since that is an honor for the deceased.¹⁴ In our presenting case the

8. Rashi *Sanhedrin* 46b, "ke kavor tikkirenu".

9. Rambam, *Sefer Hamitzvot mitzvat aseh* 331.

10. *Shulchan Aruch Yoreh Deah* 357:1.

11. *Minchat Chinuch mitzvah* 336 and 337.

12. *Sanhedrin* 46b.

13. Rashi, *Sanhedrin* 46b, "lav kol kaminei".

14. *Shulchan Aruch Yoreh Deah* 357:1.

deceased would surely have wanted the burial delayed to allow for an autopsy that could save the life of his/her relative. It is therefore possible that delaying burial for autopsy may be permitted if doing so would not be considered degrading to the deceased.

Nivul Hamet (Defiling the deceased)

A second principle that prohibits routine autopsies is the obligation to respect and not degrade the body of the deceased. The Gemara in *Bava Batra*¹⁵ discusses a case where a father dies and leaves property to his son. The son immediately sells the property and soon after dies as well. The son's inheritors claim that the deceased had not reached adulthood and therefore the sale should be void and the property should belong to the father's other heirs. The buyers claim that the deceased had reached adulthood, thus the sale is legally binding and the property therefore belongs to them. Rabbi Akiva was asked whether it would be permitted to exhume the body to see if the deceased had physical signs of adulthood.¹⁶ Rabbi Akiva answered that the body should not be examined because of *nivul hamet*, or desecration of the dead. Rabbi Akiva further added that after death signs of puberty change and are unreliable in determining adulthood, and therefore examining the body would not be helpful.

Tosafot¹⁷ state that Rabbi Akiva was compelled to provide both answers because there are cases where it would have been permissible to examine the body.

15. *Bava Batra* 154 a-b.

16. The physical sign of adulthood is 2 pubic hairs.

17. *Bava Batra* 154 b.

Tosafot write that the buyers have the right to examine the body since they stand to lose money.¹⁸ Financial loss is a permissible reason to examine the body, according to Tosafot. However, suggest Tosafot, the family has a special obligation to the deceased and thus even for financial loss cannot degrade the body. Therefore, Rabbi Akiva had to bring the second answer that even for the buyers who are permitted to defile the body because of financial loss, examining the body would not help because signs of puberty change after death. According to Tosafot, the prohibition of *nivul hamet* applies only when there is no good reason to defile the deceased; but for an acceptable purpose, such as monetary loss, *nivul hamet* would not apply.

The concept of *nivul hamet* is discussed in other Gemara texts as well. The Gemara in *Brachot*¹⁹ states that one who transports bones from one place to another should not place them in a sack on a donkey because it is an act of *bizayon*, or embarrassment, to the body. The Gemara in *Chullin*²⁰ discusses a case of a man who commits murder and is liable for capital punishment. The Gemara asks why we don't check to see if the victim was a *treifa* (someone who would have died imminently due to a physical problem),²¹ in which case the accused would not

18. Tosafot also state that the family isn't permitted to examine the body because there is no financial loss to them. The family members are not actually losing something that was in their possession but are simply not receiving the field as part of their inheritance.

19. *Brachot* 18a.

20. *Chullin* 11b.

21. A *treifa* is a person who has an ailment that will lead to death within a year so the murderer is hastening death but that person was going to die anyway. While it's not permitted to kill a *treifa*, there is no capital punishment associated with it.

be liable for capital punishment. The Gemara answers that we don't check to see if the body is a *treifa* even to save the accused from receiving capital punishment because of *nivul hamet*. The Gemara explains that since we can never know for sure if the deceased was a *treifa*,²² and yet we still execute the murderer, we do not violate *nivul hamet* on the small chance that the deceased was a *treifa*.²³ Autopsies involve dissecting the deceased's body and should be prohibited because of *nivul hamet*. However, if the autopsy is done for an accepted purpose it may not be considered *nivul hamet* and thus would be permissible.²⁴

Prohibition of deriving benefit from a Jewish body

The Gemara in *Avoda Zara*²⁵ states that it is prohibited to derive *hanaah*, or benefit, from a Jewish dead body.²⁶ In accordance with this Gemara, the *Siftey Cohen*²⁷ rules that it is prohibited to derive any benefit from the body of the

22. It is possible that the deceased was stabbed in the heart and the deceased may have had a heart condition that could have killed him within a year. However, the stabbing has covered the evidence to the point that one can't tell if there was a heart condition. We still execute the murderer even though we can never know with certainty that the deceased wasn't a *treifa*.

23. This Gemara tries to prove the concept of *rov* (majority) from this case. Since we cannot violate *nivul hamet*, the murderer receives capital punishment because we go by the fact that the majority of people murdered are not *treifas*.

24. See *Tosafot Bava Batra* 154b discussed above. Financial loss to a non-family member would be an acceptable reason to examine the body.

25. *Avoda Zara* 29b.

26. This is learned through a *gezera shava* (comparison) from the case of *eglah arufah*. *Eglah arufah* is a case where a person was murdered and it is not known who murdered the person. The elders of the city closest to the corpse must bring a calf and perform a ceremony denying responsibility. It is prohibited to derive benefit from this calf.

27. *Siftey Cohen*, *Yoreh Deah* 349:1 and *Yoreh Deah* 79:3.

deceased. The purpose of autopsies is to gain knowledge from viewing, dissecting and analyzing the body of the deceased. This is not a classic form of *hanaah* since no physical or monetary gain is derived from the deceased.

The Chatam Sofer²⁸ states that routine autopsies are prohibited because of the prohibition of receiving any *hanaah* from the deceased. Rav Eliezer Waldenberg²⁹ quotes the *Machaneh Chayim* and states that only tangible forms of benefit from the deceased are prohibited. Knowledge derived from the deceased is not tangible and is therefore not prohibited.

Autopsies in Jewish History

Traditionally, autopsies were performed to define cause of death or to advance medical knowledge. Autopsies and anatomical dissection have played an integral part in advancing medical knowledge. By helping scientists better understand disease processes they have aided in discovering new treatments for various diseases and illnesses. Up until the 20th century, Jewish bodies were buried without much debate.³⁰ The last two centuries have seen a dramatic increase in medical institutions and major advances in medicine. This has returned the autopsy debate to the forefront of society and Jewish halacha.

The establishment of the state of Israel presented an even more pressing dilemma. Since the Israeli population

28. *Chatam Sofer*, *Yoreh Deah* 336. Also see *Hagahot Rabbi Akiva Eiger*, *Yoreh Deah* 349.

29. *Tzitz Eliezer* 4:14. Also see Rav Tzvi Pesach Frank, *Responsa Har Tzvi*, *Yoreh Deah* #278.

30. Rabbi Avraham Steinberg, *Encyclopedia of Jewish Medical Ethics* 74-75.

is mostly Jewish, medical institutions could not rely solely on non-Jewish bodies for autopsies and anatomical dissection. Medical institutions and hospitals in Israel requested autopsies on Jewish bodies to better understand certain diseases and aid in discovering treatments. Medical schools in Israel requested Jewish bodies to be donated for anatomical dissection. This highly-debated topic led to many years of tension between the Rabbinate and physicians in Israel.³¹

Pikuach Nefesh (Life-Saving Situations)

Routine autopsies that determine cause of death but serve no other purpose are prohibited because of the three prohibitions outlined above (immediate burial requirement, prohibition of *nioul hamet*, and prohibition of deriving benefit from the deceased). The Gemara³² learns from the verse in Leviticus³³ that we are permitted to violate the Torah in cases of *pikuach nefesh*, where violating the Torah leads to saving the life of another Jew.³⁴ It would therefore seem that when information from an autopsy might save another's life, it should be permissible to perform that autopsy despite the three prohibitions noted above.

There is a major difference between the classic case of *pikuach nefesh* and our case of autopsy. Cases of *pikuach nefesh* generally involve violating a commandment between man and God (*bein adam lamakom*), such as

31. Ibid.

32. *Sanhedrin* 74a, see Rashi there.

33. Leviticus 18:5.

34. Except for the "big three" of worshipping idols, killing, and prohibited relations.

Shabbat, in order to save a life. Our case of autopsy involves violating a commandment between man and fellow man (*bein adam lachaveiro*). The physician who performs the autopsy may be saving one life but is doing so at the expense of degrading a fellow Jew.

There are 2 cases of violating *bein adam lachaveiro* for *pikuach nefesh* brought down in the Gemara. The Gemara in *Erechin*³⁵ discusses a case of a pregnant woman who dies. The Gemara states that it is permitted to perform a caesarean section and remove the fetus from the mother's body even on Shabbat. This would seem to prove that *nioul hamet* is permitted for *pikuach nefesh*.³⁶ However, the ruling in this case may not be applicable to autopsies. In the case of the pregnant woman, the mother's body is a physical barrier standing between the fetus and life. But in the case of autopsy, the deceased has no connection to another person who may potentially benefit in the future from information obtained from the autopsy.³⁷

Secondly, similar to our presenting case, the mother would have wanted the C-section performed to save her baby. However, the deceased may not want an autopsy performed to help save a person who is unknown to him/her.³⁸

Finally, some say that procedures that are routinely performed on live patients are not considered *nioul hamet* and can therefore be performed on the deceased.³⁹ Since a cesarean section is an accepted procedure, it is not

35. *Erechin* 7a.

36. *Mishpetei Uziel*, *Yoreh Deah* 28.

37. *Binyan Tzion* 171.

38. Ibid.

39. Ibid, *Iggerot Moshe Yoreh Deah* 151.

considered *nivul hamet* and that may be why the Gemara permits it.⁴⁰ It is therefore possible that one could permit a cesarean section on the deceased pregnant woman but still not allow autopsy in other cases of *pikuach nefesh*.⁴¹

The Gemara in *Bava Kama*⁴² discusses a question that King David posed to the Sanhedrin. The Philistines who were fighting against the Jews were hiding in stacks of barley in Jewish fields. King David asked whether it was permitted to set fire to these stacks to flush out the Philistines and save their own lives. The Sanhedrin replied that in general it is forbidden to steal money or destroy someone else's property to save one's life.⁴³ Rashi interprets the Gemara literally and states that it is prohibited to destroy personal property or steal money to save one's life. However, Tosafot and the Rosh interpret the Gemara differently. They state that the Gemara is asking whether there is an obligation to pay back the money, but it is obviously permitted to steal to save one's life. Therefore, according to Rashi, it would seemingly be prohibited to violate *bein adam lachaveiro* to perform an autopsy. However, Tosafot and the Rosh may permit autopsy for *pikuach nefesh*.⁴⁴

40. *Binyan Tzion* 171.

41. *Ibid.*, *Iggerot Moshe Yoreh Deah* 151. See text below.

42. *Bava Kama* 60.

43. Since King David was king, he and his army were permitted to set fire to the fields. However, if he weren't the king it would have been prohibited.

44. It is possible that Rashi is of the opinion that stealing is a 4th prohibition (see "big three," footnote 28 above) that one is required to die rather than violate (see Ramban and *Shita Mekubetzet Ketuvot* 19a). Rashi may then permit violating other *bein adam lachaveiro* prohibitions for *pikuach nefesh*. It is also possible that Tosafot and the Rosh permit violating *bein adam lachaveiro* for *pikuach nefesh* only when one is able to repay what was stolen (money). However, they may prohibit violating *bein adam lachaveiro* in cases where one cannot repay what was stolen (stealing the *kavod* or dignity of the

Our autopsy case is a unique form of *pikuach nefesh*. There has been much debate among contemporary halachic authorities how to view our case of autopsy with regard to *pikuach nefesh*. I will review the major Jewish halachic responsa in order to better delineate which clinical scenarios may justify permitting an autopsy.

Halachic responsa

The *Noda BiYehudah* discusses a case regarding a patient with kidney stones who passed away following surgery that was performed in an attempt to cure his illness.⁴⁵ The physicians requested to perform an autopsy in order to better understand how to successfully perform this surgery in the future. There was no present patient dying from kidney stones but the autopsy was sure to help with future patients who would be suffering from the same disease. The *Noda BiYehudah* writes that this is not considered a case of potential "*pikuach nefesh*," since there is no "*choleh lefanenu*," or present patient with kidney stones. Implicit from this statement is that, if there were another person with a similar disease of whom one were aware, it would be permissible to perform the autopsy.

The *Chatam Sofer*⁴⁶ cites the *Noda BiYehudah* and agrees that routine autopsies are prohibited and are not considered in the realm of *pikuach nefesh*. However, he explicitly writes that if there is a *choleh lefanenu* with a similar ailment, it is permissible to perform the autopsy on the deceased in an attempt to help the other sick patient.

deceased).

45. *Noda BiYehudah Yoreh Deah* 210.

46. *Chatam Sofer, Yoreh Deah* 336.

The *Chazon Ish*⁴⁷ defines the criteria for permitting autopsies based on *pikuach nefesh* differently. He permits autopsies when there is an epidemic or any common condition since the information will surely be used. The autopsy is permitted even if there is no *choleh lefanenu* since there will undoubtedly be a similar patient in the near future who will benefit from the information. However for a rare condition, the information from an autopsy will not necessarily be utilized. It is not considered even potential *pikuach nefesh* and is therefore prohibited.

Rav Yaakov Ettlinger is more stringent. He writes that even if there is a *choleh lefanenu* it is still prohibited to perform an autopsy.⁴⁸ He quotes the Gemara in *Bava Kama*⁴⁹ and states that if one cannot steal money for *pikuach nefesh*, how much more so one cannot steal the *kavod* or dignity of another individual for *pikuach nefesh*. Rav Ettlinger states that even Tosafot and the Rosh will prohibit autopsy. Tosafot and the Rosh permit stealing for *pikuach nefesh* since one can repay the stolen money. However, one cannot repay the deceased for disgracing the body, and therefore Tosafot and the Rosh would prohibit *nivul hamet* for *pikuach nefesh*. However, Rav Ettlinger permits autopsy for *pikuach nefesh* if the deceased had consented to autopsy, since one is no longer "stealing" his/her dignity.⁵⁰

Rav Moshe Feinstein⁵¹ similarly prohibits autopsies

47. *Chazon Ish*, *Hilchot Aveilut* 208:7.

48. *Binyan Tzion* 170, 171.

49. *Bava Kama* 60.

50. If consent is not obtained prior to death, the family doesn't have the right to consent on behalf of the deceased, and *nivul hamet* is prohibited.

51. *Iggerot Moshe*, *Yoreh Deah* 151.

even with a *choleh lefanenu*. Rav Moshe writes that while there is an obligation for a physician to save someone who is sick, there is no obligation to become a physician so that at some point you may be able to save someone. Your obligation is to do all you can with the resources and abilities that you possess. Similarly in our case, Rav Moshe argues that there is no obligation on the deceased to have his body dissected and analyzed so that information gained may save another individual. And since there is no obligation, it is prohibited because of *nivul hamet*. Rav Moshe, however, permits needle aspiration or analyzing blood from the deceased.⁵² Procedures that are commonly performed on living patients are not considered *nivul hamet* and are thus permissible.

Rav Yechiel Yaakov Weinberg⁵³ broadens the *Nodah BiYehudah's* ruling. Nowadays with availability of rapid communication, even if there isn't a known *choleh lefanenu* there will likely be someone somewhere who will benefit from the autopsy information. Therefore, if there is a disease for which the treatment has not yet been perfected, it is permissible to perform the autopsy.

Rav Eliezer Waldenberg⁵⁴ is also more lenient in permitting autopsies. He posits that if a person dies from an illness where the treatment is not established, it is permissible to perform an autopsy if:

1. there is a *choleh lefanenu* since this is considered *pikuach nefesh*, or

52. *Ibid.*

53. *Seridei Eish siman* 22.

54. See *Tzitz Eliezer* 4:14.

2. if the deceased had agreed to an autopsy even if there isn't a *choleh lefanenu*.⁵⁵

However, Rav Waldenberg writes that it is prohibited to learn about the body in a general manner even if the deceased had requested this.

Rav Ben-Zion Meir Hai Uziel,⁵⁶ the first Sephardi Chief Rabbi of Israel, understands *nivul hamet* differently. Rav Uziel explains that it is only considered *nivul hamet* if the autopsy is done for no purpose at all or if the primary objective is to defile the body. But if it is done for a purpose, especially when that purpose is *pikuach nefesh*, it's permissible.⁵⁷ In addition, Rav Uziel writes that the prohibition of leaving the body hanging on a tree is because of *bizayon*, or embarrassment, to the deceased. But delaying the burial for any acceptable purpose is not a *bizayon* and the deceased would not require immediate burial. Rav Uziel permits autopsies on patients with illnesses where the proper treatment is not fully understood. Even if there is no *choleh lefanenu*, there is no doubt that there will eventually be a patient with a similar disease. If autopsies are not done, it will definitely lead to the death of similar patients since we will not have learned enough about the disease to treat it properly. Rav Uziel also permits studying the body of a deceased in a general fashion, if that is the only way for Jews to learn about the particular illness. He therefore

55. In a case where there is no *choleh lefanenu* and the deceased did not agree to autopsy but the physicians are adamant to learn the proper treatment for the illness, Rav Waldenberg states that a select group of rabbis must be consulted to permit such a case.

56. *Mishpatei Uziel Yoreh Deah* 28.

57. Rav Uziel, however, prohibits the patient or family from receiving financial benefit from the autopsy since one cannot derive *hanaah* from the deceased.

permits autopsies in Israel where the population is mostly Jewish.⁵⁸

Current times

Nowadays, treatments for most diseases are well established and routine autopsies are of little benefit in advancing these treatments. In addition, there are non-invasive diagnostic modalities that can be utilized post-mortem that obviate the need for many autopsies.⁵⁹ However, there are still situations where autopsies are necessary and would seemingly be permitted for *pikuach nefesh*.

1. Epidemic/new diseases – If there are new viruses, diseases or epidemics where therapies are not known or well established, it would be similar to the *Noda BiYehudah's* case and autopsies would be permitted because of *pikuach nefesh*.⁶⁰
2. Familial/genetic illness – patients who die of unknown causes especially from sudden death, may have inherited disorders. When imaging is unrevealing, autopsies may be required for direct visualization and to obtain targeted tissue samples to make an accurate diagnosis.⁶¹ A correct

58. *Mishpatei Uziel Yoreh Deah* 28-29.

59. Among other modalities, there are newer MRI machines specifically designed to help reveal cause of death. However, there are diseases that may require more in-depth analysis of organ tissues. In these cases classic cadaver dissection is essential for accurate diagnoses.

60. *Chazon Ish, Hilchot Aveilut* 208:7.

61. Biopsies of the heart can technically be performed without an autopsy. However, biopsies of the heart have a low diagnostic yield and a negative biopsy is insufficient to reliably exclude cardiac disease. Therefore a full heart dissection may be needed to include and/or exclude cardiac disease as cause of death.

diagnosis can save lives by identifying other family members who suffer from the same genetic disease.⁶²

3. Experimental therapies – There are patients who may be taking experimental medications or other forms of experimental therapy. It may be necessary to perform an autopsy to ensure that these treatments did not contribute to their death. This information will help other patients undergoing these experimental therapies.⁶³
4. Forensic medicine – If there is any question whether a patient was murdered, an autopsy can clarify cause of death. This may help catch a murderer and prevent future killings.⁶⁴

Other cases aside from *pikuach nefesh* where autopsies may be permissible include financial loss for non-family members,⁶⁵ the need to identify the deceased in order to allow the widow to remarry,⁶⁶ and for the study of medicine in a general fashion in Israel.⁶⁷

Medical School and Anatomy Lab

Anatomical dissection is a traditional part of medical school education. Students are assigned an unidentified

62. Rabbi Y. Arieli, *Torah SheBe'al Peh* 724, p. 40, cited in *Nishmat Avraham Yoreh Deah*, vol II 349:1.

63. Fred Rosner, Moshe D Tendler, *Practical Medical Halacha*, p. 79.

64. *Tzitz Eliezer* 4:14.

65. *Tosafot Bava Batra* 154b discussed above; see also *Choshen Mishpat* 107:2 *hagah* who states that a lender is permitted to delay a funeral, thereby causing *bizayon hamet*, in order to exact payment from the deceased's family.

66. *Shoel Umaishiv* 1st edition, part 1:231.

67. *Mishpatei Uziel Yoreh Deah* 28. Rabbi S Goren, *Meorot*, 2, 5740 (1980) 5-17.

cadaver of a person who has donated his/her body to science. This is not a problem for medical students in the United States since most bodies are not Jewish. However, this is a major problem in Israel since most bodies are Jewish.

Most modern day *poskim*⁶⁸ prohibit anatomical dissection of Jewish bodies since the information is not being used to save a *choleh lefanenu*. Some *poskim*⁶⁹ allow students to observe anatomical dissection since there is no direct *hanaah*. A minority of *poskim*⁷⁰ permit anatomical dissection on the basis that the information garnered during anatomy lab will help save future lives by educating students.

Nowadays there are computer simulators that can be used instead of cadavers for the study of anatomy.⁷¹ These are being used in medical schools as a supplement to the classic anatomical dissection. While anatomical dissection remains a traditional part of medical school, it has little practical benefit over computer simulators. Computer simulators are a viable alternative and may obviate the need for cadaver dissection.

Performing the Autopsy

If and when an autopsy is permitted according to

68. See *Noda BiYehudah Yoreh Deah* 210, *Tzitz Eliezer* 4:14, and *Iggerot Moshe Yoreh Deah* 151 among others.

69. See *Har Tzvi*, *Yoreh Deah* #278 and see *Chazon Ish*, *Hilchot Aveilut* 208:7 where he states that visual examination of the deceased is not considered *hanaah*.

70. Rabbi S Goren, *Meorot*, 2, 5740 (1980) 5-17, *Mishpatei Uziel Yoreh Deah* 28-29.

71. see www.biodigitalhuman.com as an example which is currently used as a supplement to anatomical dissection by the NYU School of Medicine.

Jewish halacha, all *poskim* agree that it must be performed with the utmost dignity⁷² and in the appropriate manner.⁷³ The autopsy should focus only on the area in question. Further dissection of other body parts to complete a full study is prohibited. A bag should be placed underneath the body to collect any fluids or body parts from the deceased. Once the autopsy is completed, all removed parts should be returned immediately to the body. The body should be buried as soon as possible after completion of the autopsy. In all cases prior to allowing the autopsy, the family, physician and Rabbi should meet to determine need for autopsy and ensure appropriate care and respect is given to the deceased during the autopsy.

Halachic Living Will

End-of-life issues often arise on an emergent basis and can cause significant stress to all parties involved. In order to make the correct medical and halachic decision regarding an autopsy, it is imperative that a discussion between the family, physician and Rabbi take place. This will ensure that unnecessary autopsies are not performed and at the same time will ensure that autopsies that may save lives are performed.

Orthodox institutions⁷⁴ have developed a legal form called a Halachic Living Will that designates an Orthodox Rabbi of one's choosing to be consulted on

72. *Mishpatei Uziel Yoreh Deah* 28.

73. Fred Rosner, Moshe D Tendler, *Practical Medical Halacha* p. 79.

74. Rabbinical Council of America, Orthodox Union, and Agudath Israel of America among others.

end-of-life matters including autopsy.⁷⁵ This ensures that the autopsy will only be performed if halachically permissible. In addition, if the autopsy is halachically indicated, the Rabbi can oversee the autopsy to ensure that it is performed according to halacha. Filling out these legal documents can help alleviate concerns regarding end-of-life issues.

Conclusion

Our patient, Mr. X, died suddenly from unknown causes. Through autopsy he was found to have died from a genetic cardiac disease. This familial disorder was found to be present in other family members and they were treated appropriately. Since the family members prior to autopsy are at risk of having a genetic disease associated with sudden death, this is a case of *pikuach nefesh*. Therefore, according to most *poskim*,⁷⁶ a focused autopsy is permitted.⁷⁷

There are three basic principles that prohibit routine autopsies: the requirement to bury the dead, the prohibitions against *nivul hamet* and deriving benefit from the deceased. Most *poskim*⁷⁸ permit autopsies in cases of *pikuach nefesh*. Autopsies for purposes other than

75. Halachic living will. See <http://www.rabbis.org/pdfs/hcp.pdf> or <http://www.ilaw.com/Forms/>.

76. All except Rav Moshe, who doesn't allow autopsies in any case, and Rav Ettlinger who doesn't allow autopsies without prior consent from the deceased.

77. Blood analysis (drug overdose is another common cause of death in young adults and can be diagnosed quickly through blood analysis) and an MRI can be performed first, since this may reveal cause of death without needing an autopsy. However, if no diagnosis is made, an autopsy to accurately diagnose cause of death should be performed.

78. All except Rav Moshe and Rav Ettlinger as cited above.

pikuach nefesh may be permitted but must be discussed with a Rabbi. The halachic living will is an ideal means to ensure appropriate decisions are made regarding an autopsy and that the proper respect is given to the deceased if an autopsy is performed.

Writing a Sefer Torah: Modern Permutations of a Biblical Commandment

Rabbi Elchanan Poupko

Introduction

One of the lesser known mitzvot of the 613 biblical mitzvot is the mitzvah of writing a *Sefer Torah*. It is not only one of the 613 mitzvot but in fact is the very last one. The Torah tells us (*Devarim* 31:19), "*Ve-ata kitvu lachem et ha-shira hazot ve'lamdah et be'nei yisrael*". This verse is understood by the Jewish tradition (*Mesorah*) to say that each and every Jew should write for himself a *Sefer Torah*. This mitzvah is mentioned in the Talmud and codified by the Rambam and the *Shulchan Aruch*.¹

The question that must be dealt with is why the Jewish people in the past few hundred years have not engaged in this mitzvah on an individual basis, as the nature of the mitzvah requires. Although one may suggest that the reason for this apparent widespread neglect is the great

1. *Sanhedrin* 21:b, Rambam, *Hilchot Sefer Torah* Chap. 6, *Shulchan Aruch* YD:260.

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